pg

1934

Department of Revenue

OFFICE of the Board of Revenue

STATION Bangalore

No. 175 F.

Dated 26-6-34

Pages in the file

(SUBJECT.)

Sirs - Grant of - Village Asst. Muniffs Com
S.R. Nos. 1134-176 and 177 - Sinnyappa Taluk -
Village - Execution of sale deeds out of Disre
grants and supply of materials therefor - D
Sanctioned.

p9

1939

Department of Revenue

OFFICE of the Board of Rev

STATION Bangalore

No. 1757

Dated 20-6-39

es in the file

(SUBJECT.)

Distt - Kolar - Collection of Land Revenue in Kolar Dist. Measures to
c. Nos. 1431-114 and 177 - Suvugappa Taluk
village - Execution of bell work out-of Bound
ants and supply of materials thereto
ouchers &.

1 L3 Hg 3-7-39 ends as per R.P125 L 22

C.F. 32.

Revenue DEPARTMENT.

In reply, please quote number, date and short title.*

Received Registered

From (Name) N.S. Arunachalam Esquire., I.C.S.

(Designation) Collector,

Post Box, (Station) Bellary.

Telegraphic Addre

OFFICE OF THE BOARD OF REVENUE 5 - JUN 1939 MADRAS

To

The Secretary to the Board of Revenue.
Madras.

Ref S. R No. 2 ~~203~~/39 A1 dated 31st May 19 39

Sir,

* Suits - S.C. 178 & 179/39 - District Munsif's Court Bellary - Plaintiff Neelanagoud - defendant Collector & Venkatachallam.I. - written statement sanction reauested.

ENCLOSURES

1 Copy of the plaint
Copy of the Petition
CC Spare Copies 3488/38
Connected D.Dis 496/38
Two written statement
Reg Rep
Secy
24-3-39

2 & 3

One V.H. Neelanagoud has filed two suits in the District Munsiff's Court Bellary implicating the Government as defendant No. 1 and Sri. I. Venkatachalam, the then Tahsildar of Siruguppa as defendant No. 2. I enclose copies of the plaints filed by him.

P 4 4

P 8 4

2. The plaintiff has sued for a sum of Rs.90/- and Rs.84-11-9 alleging that these amounts are due to him from Government for the work done by him towards construction of two wells in Karur village of Siruguppa Taluk from the discretionary grants.

P 11-12 4

3. I submit herewith a precis of the cases which clearly explains the transactions between the Plaintiff and the Tahsildar of Siruguppa (2nd defendant).

4. The connected records this office L.Dis. 3488/38 and the Siruguppa Taluk Office file D.Dis. 496/38 are submitted herewith.

P.T.O.

5. The Government Pleader Bellary has been consulted and two written statements are sent herewith for approval. The defence of the suits may be sanctioned and the written statements returned for file in the Court on 3-7-39 to which date the cases stand posted.

RK/1-6

For Collector.

In the Court of the District Munsif of Bellary.

No. 178 of 1939.

Between :-

V.H. Neelana Gowd. Plaintiff

and

1. The Provincial Government of Madras represented by the Collector, Bellary
2. I: Venkatachalam Naidu. Defendants.

Plaint under Order 7 Rule 1 C.P.Code

The Plaintiff :-

V.H. Neelana Gowd, son of Kalana Gowd, 40, Lingayat Local Fund Contractor, Holagundi, Alur Taluk.

Address of Plaintiff for service of process etc is care of T.Krishnamurthy vakil Bellary

2. The Defendants:-

The Provincial Government of Madras represented by the Collector of Bellary , Bellary.

2. I: Venkatachalam Naidu, son of father's name not known to Plff, major. Naidu caste. Tahsildar. Siruguppa Taluk Siruguppa

3. In March of 1938, the 2nd defendant gave on contract to the Basavana Gowd, Reddy of Ibrampuram, certain work to be done in Karur village of Siruguppa taluk. Until 28th March 1938, the said Basavana Goud had only built the Parapat Wall of the Well and left the rest of the work incomplete. The 2nd Defendant directed the Plaintiff on 29-3-1938 to complete the said work and stated he would pay as per Government Bill rates for the said work and stated he would pay as per P.T.O.

work by Plaintiff, and directed that as the amount alloted by the authorities will lapse unless the work was finished expeditiously the same must be finished soon.

4. The Plaintiff immediately began the work and finished it on the 31st March 1938. The Bill amounts as per local Fund rates comes to Rs. 136-0-0 as per detailed Bill supplied and given hereto in para 5 also, and towards this sum credit is given for Rs. 46/- received through Ibram puram Basavana Gowd, Balance of Rs. 90/- is due and as demands on the 2nd Defendant had no effect, a Notice under section 80 of C.P.C. was issued to 1st Defendant on 2-9-38 and received by him on 5-9-38. The 1st Defendant, has vaguely replied that the threatened suit is awaited. without giving details as to whether the 2nd Defendant acted under his orders or was personally responsible. Hence this suit impleading both the Defendants.

5. Details of sum due:-

1. Platform, Drain, Retaining, Foundation Earth-work digging 100 C.ft at Rs. 9/- per 1000 C.Ft rate.	Rs 1-0-0
2. Concrete 125 C.ft. in the above digging at 23/- per 100 Cft. rate.	30-0-0
3. Masonry at Rs. 30/- per 100 c.ft rate for 100 C.ft work	30-0-0
4. Concrete Platform round the well 300 c.Ft. at Rs. 23/- per 100 c.ft. rate.....	69-0-0
5. Cooly re: Stone slab work for 8 coolies at 0-6-0 rate per cooly day	3-0-0.
6. Three Masons work for 1 day at Rs. 1/- per day rate per Mason	3-0-0
Total	136-0-0
Deduct sum received through Basavana Gowd from Kolur Sama Rao.....	46-0-0
Balance due and claimed	-0-0

5

Cause of action for this suit arose on 29-3-38 (date of order to do the works) and 31-3-38(date of completion of works), and 5-9-38 (date of receipt of notice by 1st defendant) in Karur village of Siruguppa Taluk, as the defendants have failed to pay for the works done as per directions of the 2nd Defendant. This Court has jurisdiction to entertain the suit.

7. The Plaintiff values the suit for jurisdiction at Rs.90/- and pays Court fees of Rs. 6-12-0 on the same.

8. The suit is in time as being within 3 years of the date 31-3-1938 being the date on which the amount sued for was due.

9. The Plaintiff prays :-

A) For a Decree for the sum of Rs. 90/- plus Court costs and future interest at Court rate, against both or either of the Defendants as the Ho'ble Court deems fit.

B) Such other relief as the Court deems fit in the circumstances of the case.

I, V.H. Neelana Gowd of the Plaintiff herein declare that what is stated in paras 1 to 9 of this plaint is true and corredt to the best of my knowledge and belief

Signed and verified at Bellary this 3rd day of March 1939.

/True copy/

In the Court of the District Munsiff of Bellary

S.C.No. 179 of 1939.

Between:-

V.H. Neelana Gowd ... Plaintiff

and

1. The Provincial Government of Madras represented by the Collector of Bellary. } Defendants.

Venkatachalam Naidu

Plaint under order 7 Rule 1 C.P.Code.

1. The Plaintiff:- V.H. Neelana Gowd son of Kalana Gowd. 40, Lingayat, Local Fund Contractor, Holagundi, Alur Taluk.

Address of Plaintiff for service of process etc is care of T.Krishnamurthy vakil Bellary.

2. Defendants:-

1. The Provincial Government of Madras represented by the Collector of Bellary, Bellary.

2. I. Venkatachalam Naidu. son of Father's name not known, major, naidu caste, Tahsildar, Siruguppa Taluk, Siruguppa.

3. On 28-3-1938 the 2nd Defendant who is the Tahsildar of Siruguppa, gave an order in writing to Plaintiff at Karur village in Siruguppa Taluk to supply at the Korchara Well of the said Karur village by the 30th March 1938.

a) Four Kirloscar Pullies (b) Two Ry. Rails of 14 ft lengths each (c) Four 9ft long stone slabs and undertook to pay for them as per Plaintiff's Bills therefor.

4. On 30-3-38, the Plaintiff supplied at the Karur Koracha Well (a) Two Kirloscar Pullies (b) Two M.S.M. Ry. Rails of 18¾ ft length each and (c) Four stone slabs of 9 ft X 2ft each. The said articles were accepted by the Tahsildar. (2nd Defendant)

8

5. As in spite of demands, the 2nd defendant did not pay for the articles supplied , and presumably the order was given by the 2nd Defendant in his official capacity as Tahsildar, a notice under section 80 of C.P.C. was given to the 1st Defendant on 2-9-1938, demanding either payment of the sum claimed or a reply that the Tahsildar (2nd defendant) acted in the matter only in his personal capacity. But, the Government vaguely replied that " the threatened suit is awaited" Hence the suit to recover the sums due from one or both of the Defendants as this Hon'ble Court holds liable.

6. Cause of action for this suit arose on 28-3-38 (date of order) 30-3-38 (date of supply) and 5-9-38 (date of receipt of Plaintiff notice by 1st Defendant). Cause of action arose in Karur village in Siruguppa Taluk, where the articles were ordered for and supplied and this Court has jurisdiction.

7. The Plaintiff's details of Bill as supplied to Defendants are

(1) Two Kirloscar Pullies at Rs. 7 each ... Rs. 14-0-0

(2) Two M.S.M.Ry. Rails claimed only for 14ft lengths each, total of 28 ft. at the rate of Rs. 1-9-3 per ft rate. 44-3-0

(3) Four stone slabs 9ft X 2 ft each at 6as. rate per c.ft. 13-8-0

(4) Carting slabs 9 miles from Malakote 36 C.Fts at rate of Rs. 20-1-4 per 100 c.ft..... 7-3-9

(5) Carting Rails from Bellary to work-spot 24 miles distant at 0-3-0 per mile rate.... 4-8-0

Total..... Rs. 83-6-9

(The rates are all at Local fund rates recognised by Government)

8 The Plaintiff claims Rs. 83-6-9 being Bill dues plus Rs. 1-5-0 notice charges in total of Rs. 84-11-9, and pays court fees of Rs. 6-6-0 being Court fee on Rs. 84-11-9 as value for jurisdiction

The suit is in time as being within 3 years of the 30-3-38, being date of supply of articles, and the payments due to Plaintiff.

10. The Plaintiff therefore prays :-

(A) For a Decree for Rs. 84-11-9 plus Court costs and future interest at Court rate from both or either of the Defendants 1 and 2.

(b) Such other relief as the Court deems fit in the circumstances of the case.

I , V. H. NeelanaGoud, the Plaintiff herein declare that what ~~xxx~~ all is stated in paras 1 to 10 of this Plaint is true and correct to the best of my knowledge, and belief, Signed and verified at Bellary this the 3rd March 1939.

True copy/

Precis of the Correspondence relating to the Repairs to the Koracha Well at Kurur - Siruguppa Taluk

A well constructed by the Korchas near their houses in the vacant village site in Karur was in need of a parapet wall and pulleys for its conversion into a pucca draw well and an estimate for a sum of Rs. 247/- was sanctioned by the Collector of Bellary out of his discretionary grant in his D.Dis. 6424/37 dated 5-3-39 and an allotment of Rs. 143/- was made for disbursement within the Official year 1938-39. The work was given on contract by the Tahsildar Siruguppa (Sri. I. Venkatachalam) to Sri. Reddi Basavana Gowd of Ibharampuram on his executing an agreement on 12-3-38. The work was under execution by the above said contractor who stored at site two iron pulleys and Karimamudu wooden beam required for fixing the pulleys as provided for in the Estimate. The Tahsildar on inspection remarked that the pulleys were of inferior sort and the wooden beam would not serve long and advised the contractor to use intead two Kirloscar pulleys fixed to iron rails mounted on stone slabs, but limit the charges within the sanctioned amount to which he agreed. At the Contractor's request the Tahsildar gave orders to one Nilanagoud who was attending to the construction of the village Chavadi of Karur at that time and happened to be present at the spot to supply the pulleys and rails and stone slabs required and offering to pay his bill for the articles supplied by him before 30-3-39 at the contractor's cost. The chit under the signature of the Tahsildar is in the possession of the said Nilanagoud. Work to the value of Rs. 172-8-0 was executed by the contractor by 31-3-1939 including the fixing of the pulleys and after checkmeasurement the Tahsildar paid a sum of Rs. 143/- to the contractor deducting 10 per cent of the value of k

work done and witholding an amount of Rs. 12/- towards final payment. Out of this amount of a sum of Rs. 46/- was disbursed by the Contractor to Nilana Goud's agent one Kolur Sama Rao and the voucher for the purchase of pulleys and rails including the cost of transport of these articles from Bellary was obtained from this said K. Sama Rao and attached to the part bill cashed on 31-3-39. The contractor states that he paid an amount advance of Rs. 20/- to Nilagagoud at the time of the issue of the above order. Please see his statement dated 5-5-39. The balance of the allotment viz., Rs. 104/- was subsequently sanctioned by the Collector and this amount was disbursed after final check measurement on 7-10-38 to the contractor. There was no other orders issued by the Tahsildar to Nilana Goud in connection with the execution of the work and there was no need for any such orders as the contractor was getting the work executed and he was solely responsible for its proper execution. According to the orders of the Collector work to the extent of the allotment sanctioned viz., Rs. 143/- was required to be executed before 31-3-39 and as shown above work to the value of Rs. 172-8-0 (or deducting 10 per cent of Rs. 155-8-0) was executed. To the Tahsildar's knowledge Nilana Goud executed no part of the work of the well and if he did any part of this work it is a matter between him and the contractor if the latter utilised his services or his materials in any manner. According to the statement of the contractor Nilanagoud utilised some of the materials stored by the contractor for the well work has to account to him for the materials up to the value of Rs. 50/- . Thus the contractor forms a necessary party to the suit and has to be impleaded as a defendant.

IN THE COURT OF THE DISTRICT MUNSIFF OF BELLARY.

S.C. No. 179 of 1939.

B e t w e e n : -

V.R. Neelana Gowd. Plaintiff.

a n d -

The Provincial Government of Madras
represented by the Collector of Bellary.

2. I Venkatachalam Naidu Defendants.

Written statement on behalf of Defendants under
Order VIII Rule i C.P.Code.

The Defendants above named submit as follows:

1. The Defendants deny all the allegations in the plaint except those that are expressly admitted herein.

2. The Contractor, one Reddy Basavana Gowd of Ibharapuram is a necessary party to the suit as a privity of contract existed between the Plaintiff and Reddy Basavana Gowd and not between the Plaintiff and 2nd Defendant.

3. The allegation in para. 4 of the plaint that the Plaintiff supplied the goods to the 2nd Defendant is false. It was at the request of and for the original contractor, Reddy Basavana Gowd, that the 2nd Defendant asked the plaintiff to supply the articles for which the Plaintiff has been paid by Reddy Basavana Gowd in full, Rs.20/- by way of advance, Rs.46/- to the plaintiff's agent one Kolur Sama Rao and the balance of Rs.4-7-0 has been adjusted towards some amount due by the plaintff to Reddy Basavana Gowd. Hence nothing is due to the Plaintiff.

4. The total value of the articles supplied is also overstated. According to the Defendants it is only Rs.70-7-0.

5. No cause of action has accrued to the Plaintiff as against the Defendants.

6. The suit has therefore to be dismissed with costs.

Advocated for Defendants. 1 i 2. Defendants.

Verification: -

We Defendants hereby declare that what is stated above are true to the best of our knowledge and belief.

Defendants.

Office copy.

Suits. Date of Hearing 3-7-39 20

[S.V.R.]

Suits (Bellary) Bellary Dist.

Munsiff's Court S.C. Nos. 1939 178 and 179 Simgappa Yakub Gram Village Execution of well work out of Discretionary grants and Supply of materials therefor. Defence Sanctions.

Issue

Read the following

pp 1-2 Cl. From the Coll. of Bellary Rep. S.R No: 2+3/39 A.1 dated 31.5.39 Cl.

Res (Mis) 757 dt 26-6-39

The Board Sanctions the defence of the Suits and approves the draft written statements submitted by the Coll.

26-6-39

To the Coll. of Bellary.
With Records as per list. ⊗
By R.P

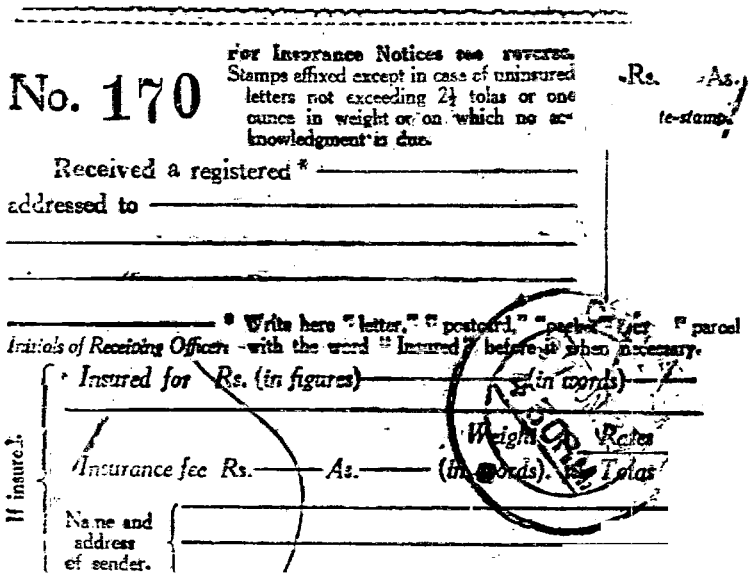
⊗

1) Colls. L. Dis. C. No. 3488/38 — (V)

2) Simgappa Taluk Office D. Dis. 496/38 — (P)
7-10-38

3) Draft Written Statts. — pp 13-204

CD
Keep O/C.


No. 170

for Insurance Notices see reverse. Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due.

Rs. As.
(To be stamped.)

Received a registered * ——————
addressed to ——————

——————

——————

* Write here "letter," "postcard," "packet," "parcel" or "parcel with the word "Insured" before it when necessary.

Initials of Receiving Officer

If insured.

Insured for Rs. (in figures) —— (in words) ——

Insurance fee Rs. —— As. —— (in words) ——

Weight Rate per Tolas

Name and address of sender.

BOARD OF REVENUE
30 JUN 1939
MADRAS

B.P. No. Ms., 1757, Dated 26th June 1939.

List of Records.

1. Collector's L.Dis. C.No. 3488/38. ✓
2. Siruguppa Taluk Office D.Dis. 496/38, ✓
   d/ 7-10-38.
3. Draft Written statements ✓

Acknowledged

2/6 — Collector 28/6/39

The Board
Revenue.
Madras

28/6

Date of Hearing - 3-7-39 Note file L2216/39

MY
JS
AS(Sett)

Papers part up.
1) Tahsildar's D.Dis 496/38 dt 7-10-38. (P)
2) Collr's Lrs 3488/38-D dt 3/1/38 (V) pp 1-2 cf
3) Draft Written Statt prepared in Spl. (E)

Suits - (Bellary) - Bellary D.M.C. - S.C.Nos. 1939-178 and 179 - Siruguppa Taluk - Karur Village - Execution of well work out of Discretionary grants and supply of materials therefor - Defence.

Letter Ref.S.R.No.2 & 3/39.A1 dated 31-5-39 from the Collector of Bellary.

To Asst.Secy.

In his letter at pp 1-2 cf, the Collr of Bellary has ~~submitted proposals requesting~~ applied for sanction for the defence of two suits filed in the D.M.Court, Bellary, by one V.H.Neelanagoud against (1) the Province of Madras represented by the Collector and (2) the Tahsildar of Siruguppa, for the recovery with costs of

(1) Rs.90/- being the value of work done to a well under the orders of the Tahsildar, and

(2) Rs. 84-11-9 being the value of materials supplied for the well.

The plaintiff had previously given notices of suit to the Collector; but the Collector merely informed the notice-giver that the threatened suit was awaited.

pln & ct pp 3-5 cf

pp 7-9 cf

pp 1-2 & 5-6 cf (V)

p.17 cf (V)

2. The plaints at pp.3-9 cf, the precis of the facts of the case at pp. 11-12 cf. and the draft written statements at pp. 13-18 cf may be perused. There was admittedly no contract entered into with the plaintiff by the Tahsildar on behalf of the Government. The work had been given on contract officially to one Basavanna Goud, Ibharapuram. If therefore the Tahsildar orally instructed the plaintiff to finish the well work (i.e. construction of parapet wall etc) and also gave him a chit for the supply of materials (i.e. pulleys, rails etc), the Tahsildar acted merely as an intermediary between the (official) contractor Basavana Goud and the plaintiff. This position is sought to be maintained in the draft written statements submitted by the

p 11 cf (V)

de para 3 of the plaint at pp 2-3 cf

written para 3, p 7 cf

2, p 13 cf & para 2, p 17 cf

Collector for the Board's approval. The Tahsildar has denied having given oral instructions to the plaintiff to complete the work referred to in the first suit.

3. The suits having been filed against the Government, their defence has become necessary and has to be sanctioned. The draft written statements received from the Collector are intended to be signed by both by the Collector (representing the Provincial Govt) and by the Tahsildar (2nd defendant). There having been no privity of contract between the plaintiff and the Government, the lines of defence by the first defendant (Govt) and of that by the 2nd defendant (the Tahr) who had something to do with the plaintiff need not be the same. In particular, in regard to the second suit, the issue of a chit by the Tahsildar acting on behalf of the (official) contractor seems to make it necessary that the written statements should be separate. In fact, the defence of this suit by the Government would not have become necessary if a definite reply had been given by the Collector to the plaintiff with reference to para (5) of the suit-notice requesting the Collector either to pay the amount or to deny the liability of the Government and leave the notice-giver to seek relief against the Tahr in his personal capacity. If this view meets with approval, the written statements to be filed on behalf of the Government in the two suits may be as in the draft put up at (E)

Orders are requested.

CR 21.6.32

In the first Suit—S.C. 178—it is not alleged that the Tahr gave the plaintiff any order directing to execute the items of work referred to. There being no documentary evidence of any contract with the plaintiff and there being at the same time a contract in force at the time with the U.M of Ibharamperumal in respect of the same work the suit is bound to fail.

In the second suit (S.C. 179), on the other hand,

the plaintiff is in possession of a chit from the
Talvr in which he was asked, acc'g to the
plaint, to supply some pullies, rails and
slabs. The Coll. shd have obtained the
chit or a copy of it from the plaintiff
exact terms
and examined its purport before disposed of
the notice of suit. The contract with the
V.M. continued to be in force and the
plaintiff cd as executing another contract
in regard to the local village chavadi.
In the circumstances the Talvr's chit
— assuming it to contain nothing more
than a direction for the supply of
pullies etc — is not likely to be
construed as anything more than a
requisition on behalf of the well
work contractor (V.M.) and when there
is evidence that the V.M. paid off
the money due to the plaintiff to his
agent, the suit can have little or
no chance of success. Another point
against the plaintiff is that when he
was directed, acc'g to S.C. 178, to do
a whole lot of work in the well without
any written authority from the Talvr,
he shd have obtained a chit from
the Talvr for the supply of the pullies etc
and carefully preserved it. Apparently he

f 7c of, para 3

f 11c of

~~induced~~ to make use of the clit's letter ~~for his own purpose~~ to bolster up a false ~~stream~~.

The Suits are not likely to succeed ~~and~~ the circumstances of the case show that the Sahib's agent was bona-fide. It was no doubt unnecessary and foolish on his part to have given a clit to the Staff but there is no doubt that he acted from a good motive; viz, to get the works completed by 31.3.38. It is not desirable for Govt to disclaim responsibility for what the Sahib is alleged to have done and leave him to slift for himself.

The Cttee has rightly prepared a common written Stat for both the defdts Govt & the Sahib. The defence may be sanctioned and the D.W.S attd 13 & 17.c.f affrd.

Ref.

Ref

J.S

SMR 24/6

M-4

L3 Atmpr Q 26/6.

S.(Gelt)

Draft Submitted.

A.S.(Sett)

B.P. No. Mis 1757

Dated 26-6-39

Single Member.

~~Two Members~~.

~~Full Board~~.

I-A. A.D.S. & L.R. Asst. Secretary. Land Sett. Dep. Rev., Dep. Rev. J.S. Secy. M/4 M 3 L 2 M 1

---

(1) Open file seen by

(2) Final draft seen by

(3) To circulated to

(4) Initials

Passed for record.

Secretary
Joint Secretary.

~~A.S. (J.W.)~~

~~A.S.(L.R.)~~

A.S.(Sett.) MAS 29/6/39

~~A.S.(Excise)~~

~~A.D.S. & L.R.~~

~~I-A.~~

Note:- Entries not required to be scored out.

Log
9-6-39